

United States District Court
Eastern District of New York

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Trustees of Empire State Carpenters Annuity, Apprenticeship,
Labor-Management Cooperation, Pension and Welfare Funds,

Petitioners,

-against-

All County Paving Corp.,

Respondent.

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ORDER

15-cv-5688(ADS)(ARL)

APPEARANCES:

Virginia & Ambinder, LLP
Attorneys for the Petitioners
40 Broad Street, 7th Floor
New York, NY 10004
By: Charles R. Virginia, Esq., Of Counsel

NO APPEARANCES:

All County Paving Corp.
Respondent

SPATT, District Judge:

On October 1, 2015, the Petitioners, namely, the Trustees of the Empire State Carpenters Annuity, Apprenticeship, Labor-Management Cooperation, Pension and Welfare Funds (the “Funds”), commenced this action by filing a petition to confirm an arbitration award (the “Petition”).

The Petition alleges that the Respondent All County Paving Corp. (the “Respondent”) failed to remit contributions to the Funds as it was required to do under the terms of a governing collective bargaining agreement. According to the Petition, the parties’ dispute over unpaid contributions was arbitrated before one J.J. Pierson, who held a hearing and, on August 26, 2015, issued a written award (the “Arbitration Award”) in favor of the Funds. The Petition asserts that the Respondent is bound

by the Arbitration Award but has failed to abide by it. Accordingly, the Petition seeks to have the Court confirm and enforce the Arbitration Award.

On November 9, 2015, the Clerk of the Court noted the Respondent's default.

On November 12, 2015, the Funds filed a motion for a default judgment.

On November 13, 2015, the Court referred this matter to United States Magistrate Judge Arlene R. Lindsay for a recommendation as to whether the Petition should be granted, and if so, the relief to be granted.

On July 27, 2016, Judge Lindsay issued a Report and Recommendation (the "R&R"), recommending that the motion for a default judgment be granted, and that the Arbitration Award be confirmed in the amount of \$15,585.32, together with a sum of \$1,463.89 in attorneys' fees and costs, for a total award of \$17,049.21.

On August 2, 2016, the Funds filed proof of service of a copy of the R&R on the Respondent.

More than fourteen days have elapsed, and the Respondent has failed to file an objection or request an extension of its time to do so.

Thus, pursuant to the provisions of 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result.

Accordingly, the July 27, 2016 Report and Recommendation is adopted in its entirety, and the Funds' Petition to confirm and enforce the Arbitration Award is granted. The Clerk of the Court is respectfully directed to enter judgment in favor of the Funds in the amount of \$17,049.21, and to close this case.

It is SO ORDERED.

Dated: Central Islip, New York
September 7, 2016

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge